



C.R.P.No.3227 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2022

CORAM:

THE HONOURABLE Mr. JUSTICE S.SOUNTHAR

C.R.P.No.3227 of 2022
and C.M.P.No.17142 of 2022

V.Leelavathi

.. Petitioner

Vs.

1.Roshini Constructions Rep by its
Sole proprietor A.Velan Kannan,
No.21, Ashoka Avenue, 1st Main Road,
Periyar Nagar,
Chennai-600 082.

2.V.Narendiran

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, pleaded to set aside the fair and decretal order dated 23.08.2022 made in I.A.No.1 of 2022 in O.S.No.172 of 2018 on the file of the Additional District Munsif at Poonamallee by allowing this Civil Revision Petition.

For Petitioners : M/s.R.Prabakar

For Respondent : No Appearance

ORDER

This Civil Revision petition has been filed challenging the order passed by the Court below dismissing the petition for impleadment filed by the petitioner.



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2. The 1st respondent filed a suit against the 2nd respondent for a declaration that the revocation of General Power of Attorney executed by the 2nd respondent in favour of the 1st respondent is illegal, null and void and also for consequential injunction restraining the 2nd respondent from alienating the suit property.

3. According to the revision petitioner, pending suit, the 2nd respondent executed a settlement deed dated 25.01.2019 settling the suit property in her favour. As she acquired interest in the suit property, pending suit he was constrained to file a petition for impleadment as a party defendant in I.A.No.1 of 2022. The Court below dismissed the said application on the ground that the settlement made by the 2nd respondent in favour of the revision petitioner is hit by the rule of lis pendens. Aggrieved by the said order the present Civil Revision Petition has been filed by the revision petitioner.

4. The learned counsel for the petitioner submitted though he is a pendente lite purchaser, if the suit is allowed to go on without his presence, his right will get affected. Hence, the Court below ought to have allowed impleadment application. I am unable to accept the argument made by the learned counsel for the petitioner having regard to the nature of the prayer sought for in the revision petition. The 1st



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prayer sought for in the suit is for declaration that revocation of the power deed executed by the 2nd respondent in favour of the 1st respondent is not valid. Even if the 1st prayer granted in favour of the 1st respondent, it is not going to affect the right of the revision petitioner. The 2nd prayer is for injunction restraining the 2nd respondent from alienating the suit property. Admittedly, the suit property had been already settled in favour of the revision petitioner. Therefore any injunction passed by the Court restraining the 2nd respondent for alienating the suit property will not affect the right of the revision petitioner. When the 1st respondent who is dominus litis has not chosen to file any application to implead the revision petitioner as a party defendant in the suit. It is not necessary that the revision petitioner should file an application seeking her impleadment. In view of the peculiar nature of the prayer in the plaint even if suit is decreed it will not affect the petitioner. Therefore, even if the order passed by the Court is allowed to stand it will not cause any irreparable injury to the revision petitioner. Therefore, I am not inclined to interfere with the order passed by the Court below. Hence, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

11.10.2022

Index: Yes/ No

Speaking Order / Non-Speaking Order

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S.SOUNTHAR, J.

Jai

To
The Additional District Munsif
Ponnamallee.

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